THE

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The Acts

of the

Governor of Madras in Council

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MADRAS ACTS.

The following Act of the Governor of Fort Saint George in Council received the assent of the Governor on the 17th December 1910 and that of the Governor-General on the 12th January 1911 and is hereby promulgated for general information.

THE MADRAS COURT OF WARDS ACT, No. I of 1911.

An Act to amend the Madras Court of Wards Act, 1902.

Preamble.

Whereas it is expedient to amend the Madras Court of Wards Act, 1902; It is hereby enacted as follows:—

1. This Act shall be called the Madras Court of Wards Act, 1902, Amendment Act, 1910.

Substitution of a new section for S. 50 of Madras Act I of 1902.

2. For section 50 of the Madras Court of Wards Act, I of 1902, the following shall be substituted:—

Suit or proceeding by or against ward.

"In all suits or proceedings in any civil or revenue court "the ward shall sue and be sued in his own "name and the Manager of his property appointed under S. 24 or, if there is no such "Manager, the officer competent to act as "Manager under S. 25 shall represent him, as next friend or "guardian *ad litem* as the case may be."

Amendment of S. 51 and 52 of Madras Act I of 1902.

3. In section 51 and in the first sentence of S. 52 of the Madras Court of Wards Act, 1902, the words "Collector or" shall be deleted and the words "or other officer competent to act as Manager under S. 25" shall be inserted after the word "Manager" occurring in those sections.

Amendment of S. 52 of Madras Act I of 1902.

4. In the second sentence of S. 52 of the Madras Court of Wards Act I of 1902, the words "in the name of the Collector or in his own name as the case may be" shall be deleted and the words "or other officer as aforesaid" shall be inserted after the word "Manager."

THE MADRAS CITY MUNICIPAL (AMENDMENT) ACT,

No. II of 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR ON THE 4TH MARCH 1911 AND THAT OF THE GOVERNOR-GENERAL ON THE 20TH MARCH 1911.]

An Act further to amend the Madras City Municipal Act, 1904.

Preamble.

WHEREAS it is expedient to amend sections 64, 151, 331 and 334 and Schedule VI of the Madras City Municipal Act, 1904; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Madras City Municipal (Amendment) Act, 1911.

Amendment of section 64.

2. In section 64, the following clause shall be inserted between clauses (*a*) and (*b*):—

"(*aa*) prescribing the educational qualifications to be possessed by such officers or "servants."

Amendment of section 151.

3. (1) In section 151 the following clause shall be inserted between clauses (*c*) and (*d*):—

"(*cc*) Bicycles belonging to and solely used by *bona fide* members of cyclist sections of "Infantry Volunteer Corps."

(2) The following shall be substituted for the proviso to the same section:—

"Provided that the exemption shall not extend in cases under clause (*cc*) to more than "one bicycle for each volunteer and in cases under clause (*d*) to more than one vehicle and two animals for any one such person."

Amendment of section 331.

4. To section 331 the following sub-section shall be added:—

"(3) The President may farm out the collection of such rents and fees for any period not exceeding one year at a time on such terms and conditions as he thinks fit."

Amendment of section 334.

5. To section 334 the following sub-section shall be added:—

"(3) The President may farm out the collection of such fees for any period not exceeding one year at a time on such terms and conditions as he thinks fit."

Amendment of Schedule VI.

6. In Schedule VI, the following shall be substituted for the first item :—

"For every four-wheeled vehicle with springs propelled by electricity, gas, steam or any other mechanical power Rs. 25

"For every four-wheeled vehicle with springs drawn by two or more horses" .. .. „ 15

THE MADRAS EQUITABLE ASSURANCE SOCIETY'S (AMENDMENT) ACT, No. III of 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR ON THE 8TH MAY 1911 AND THAT OF THE GOVERNOR-GENERAL ON THE 27TH MAY 1911.]

An Act to amend the Madras Equitable Assurance Society's Act, 1869.

Preamble.

Whereas it is expedient to amend the Madras Equitable Assurance Society's Act, 1869, hereinafter called the Principal Act; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Madras Equitable Assurance Society's (Amendment) Act, 1911.

Sections amended those of Principal Act.

2. Unless there be something repugnant in the subject or context, the sections declared to be amended by this Act are those of the Principal Act.

Amendment of section 4

3. (1) In S. 4 after the words "The General Fund" where they first occur shall be inserted the words "shall be the property of the members of the Society and"

(2) In the same section after the words "conducting the Society" shall be omitted the word "and," and after the words "due upon policies" shall be inserted the words "to making advances to members of the Society upon the security of their policies."

(3) In the same section after the words "the remainder of the said Fund" shall be inserted the words "save as provided in section 4 A."

(4) In the same section after the words "Secretary of State for India in Council" shall be inserted the words "or in any other securities in which the investment of trust funds is by aw permitted."

Insertion of a new section after section 4.

4. After section 4 shall be inserted the following new section :—

4A. " The Directors may, on the security of the policy held

Power to advance monies on policies of members or their assigns.

" by any member and to the limit of three-" fourths of its surrender value, lend moneys to " him from the General Fund, on obtaining an "assignment of the policy in favour of the " Society. The premiums paid by a member shall, in the case " of the insolvency of the Society, be a debt payable by the " Society and as such liable to be set off against advances made " by the Society under this section. All such advances shall "bear interest at such rate per annum as the Directors may deter-" mine and such interest shall be credited to the General Fund.".

Amendment of section 6.

5. In section 6 after the words " greater number of votes than ten" shall be added the words: "In all cases where a policy has been assigned to the Society the Directors shall have the vote appertaining to such policy."

Amendment of section 8.

6. In section 8 for the words " residents at Madras" shall be substituted the words "members resident in Madras."

Insertion of two new sections after section 8.

7. After section 8 shall be inserted the following new sections :—

Meetings of Directors.

" 8A. The Directors shall meet at least once a month in order to transact the business of the Society."

8B. " If at any time the number of members falls below

Power to reduce number of Directors.

200, the number of Directors may be reduced from five to three by a resolution of the Society passed at a general meeting by a majority of three-fourths of the members present and voting personally or by proxy."

Insertion of two new sections after section 11.

8. After section 11 shall be insterted the following new sections :—

11A. "Any notice which is by this Act required to be sent

Service of notices.

" to any member may be addressed and sent to the last-known address of the person to whom "notices respecting his policy are usually addressed and any "notice so addressed and sent shall be deemed and taken to be

"notice to such member. Provided that when any person claiming "to be interested in a policy has given to the Society notice in "writing of his interest, any notice which is by this Act required "to be sent to members shall also be sent to such person at the "address specified by him in the notice."

Amalgamation of the Society with British life insurance company.

"11B. If the Society, by a resolution passed by a majority "of its members at a special general meeting, "resolves to amalgamate with, or transfer its "business to, any British life insurance company, the Directors shall apply by petition to the High Court "of Judicature, Madras, for sanction for such amalgamation or "transfer. The said Court, after hearing the Directors and other "persons whom it considers entitled to be heard upon the petition, "may sanction the amalgamation or transfer, if it is satisfied that "no sufficient objection thereto has been established."

Amendment of Schedule.

9. To the first sentence of the Principal Act shall be added the following words:—

"and all persons to whom such Policies have been assigned or transferred."

Payment of expenses of amending Act.

10. All the costs, charges and expenses of and incidental to this amending Act shall be paid by the Directors out of the funds in their hands; and such payment shall be deemed to be a part of the necessary expenses of management of the Society.

THE LIMITED PROPRIETORS ACT, No. IV of 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR ON THE 14TH JUNE 1911 AND THAT OF THE GOVERNOR-GENERAL ON THE 4TH JULY 1911.]

An Act to amend the Law relating to Proprietors of Estates

Preamble.

Whereas it is expedient that certain persons who are not proprietors as defined in the Madras Proprietary Estates' Village-Service Act, 1894, the Madras Hereditary Village-Offices Act, 1895, and the Madras Survey and Boundaries Act, 1897, should be enabled to exercise the powers and discharge the duties of proprietors under the said

Acts and whereas it is also expedient to make provision for the recovery of arrears of revenue from such persons; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Limited Proprietors Act, 1911.

Repeal.

2. The proviso to the definition of "proprietor" in S. 4 of theMadras Proprietary Estates' Village-Service Act, 1894, and in S. 3 of the Madras Survey and Boundaries Act, 1897, is hereby repealed.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context, "Estate" and "Village" respectively mean an estate and a village as defined in the Madras Proprietary Estates' Villarge-Service Act, 1894.

Application to Collector for registration as proprietor.

4. Where any person is entitled otherwise than as owner to collect the rents of the whole of an estate or any portion thereof consisting of one or more villages by virtue of any transfer from an owner or of any decree or order of a competent court or of any rule or provision of law and is not the proprietor as defined in S. 4 of the Madras Proprietary Estates' Village-service Act, 1894, he may to apply the District Collector to be registered as proprietor in respect of such estate or portion for all or any of the purposes of the Madras Proprietary Estates' Village-Service Act, 1894 the Madras Hereditary Village-Offices Act, 1895, and the Madras Survey and Boundaries Act, 1897.

Procedure on such application.

5. (1) The District Collector shall give notice of the application to the registered proprietor and such other persons as appear to him to be interested in the result of the application and, after giving them an opportunity of being heard and making such enquiry as he thinks fit, may register the applicant as proprietor for all or any specified purposes of the said Acts or may refuse registry.

Provided that where the applicant is entitled to collect the rents by virtue of a decree or order of competent court or of any rule or provision of law, it shall be open to the District Collector to register him as proprietor without giving notice or holding any enquiry.

(2) Subject to the provisions of sections 7, 11 and 13 and to any decree of a competent civil court, such registration shall remain in force so long as the applicant is entitled to collect the rents.

Procedure in case of dispute.

6. If the District Collector is satisfied that there exists a substantial dispute regarding the applicant's right to collect the rents, he shall require the applicant to establish his right in a civil court, unless for other reasons he is of opinion that the application should not be granted.

Collector may vary or cancel registration.

7. Any registration made by the District Collector under section 5 may be cancelled or varied by him at any time after notice to the persons concerned.

Effect of registration.

8. During the time that any registration under this Act remains in force in respect of an estate or portion of an estate the person so registered shall exercise the powers and discharge the duties of a proprietor under the Madras Proprietary Estates' Village-Service Act, 1894, the Madras Hereditary Village-Offices Act. 1895, and the Madras Survey and Boundaries Act, 1897, in such estate or portion in respect of the purposes for which he is registered, and no other person shall act or be treated as proprietor in respect of these purposes in the said estate or portion.

Liability of the person registered to pay Government dues.

9. (1) Any person registered as proprietor under this Act by virtue of any transfer made after the commencement of this Act (hereinafter called the transferee) shall in relation to the Government be deemed to be a landholder in respect of the estate or portion of an estate concerned for the purposes of the Madras Revenue Recovery Act, 1864, and shall be liable to be proceeded against under that Act for all sums which are recoverable thereunder from a landholder and which at the time of the registration may be due on such estate or portion as the case may be, or which may become due thereon at any time while such registration remains in force.

(2) If there is any valid agreement between the owner and the transferee of a portion of an estate as to the amount recoverable in respect of such portion, the said amount shall be determined in accordance with such agreement, except where the agreement

appears to the District Collector to be unreasonable. In cases where there is no such agreement, or where the agreement appears to be unreasonable, the District Collector shall fix the said amount in the manner laid down in section 45 of the Madras Revenue Recovery Act, 1864.

(3) Nothing in this section shall relieve the transferor or his legal representative from any liability under the Madras Revenue Recovery Act, 1864.

Procedure in the case of default.

10. Where in consequence of the default of the transferee or his legal representative registred as proprietor under this Act it becomes necessary for the recovery of an arrear to proceed against the estate or portion of an estate in respect of which he is registered as proprietor, the Collector or other officer empowered by the Collector in that behalf shall cause a copy of the notice prescribed in S. 36 of the Madras Revenue Recovery Act, 1864, to be served also upon the owner of the estate not less than one month before the sale.

Cancellation of registration in case of default.

11. Where in consequence of the default of the transferee or his legal representative registered as proprietor under this Act the owner of the estate pays the arrears due by the defaulter or any part of the estate is sold for the recovery of the arrears, the registration of the defaulter as proprietor under this Act may be cancelled by the District Collector and the defaulter shall, from the date of the cancellation and in cases where it has been appealed against from the date of the appellate order confirming the same, cease to exercise the powers and discharge the duties of a proprietor and cease to be a landholder for the purposes of the Madras Revenue Recovery Act, 1865.

Revival of powers and duties of ordinary proprietor on expiry of registry under this Act.

12. From the date on which any registration under this Act ceases for any cause to be in force the proprietor then registered under the Madras Land Registration Regulation, 1802, or the Madras Land Revenue Assessment Act, 1876, shall possess the powers and be subject to the duties conferred and imposed upon the proprietor by the Madras Proprietary Estates' Village-Service Act, 1894, the Madras Hereditary Village-Offices Act, 1895, and the Madras Survey and Boundaries Act, 1897.

13. (1) The District Collector shall record his reasons in writing for every order passed by him under this Act. A copy of the order shall be despatched by registered post to all parties affected thereby whose addresses can be ascertained.

District Collectors' orders to be in writing.

(2) Against every such order an appeal shall lie to the Board of Revenue within two months from the date of despatch.

Appeal to Board of Revenue.

14. No suit or application shall lie for an injunction to restrain a District Collector from proceeding under this Act, nor shall the Secretary of State for India in Council or any officer of Government be made a party to any suit or be liable in respect of anything done or purporting to be done under this Act in good faith.

Barring of suits and applications for an injunction.

15. Subject to the approval of the Local Government the Board of Revenue may make rules not inconsistent with this Act for carrying out the purposes of the Act.

Power to make rules.

THE MADRAS HACKNEY CARRIAGE ACT, No. V of 1911.

[RECEIVED THE ASSENT OF THE GOVERNOR ON THE 16TH JUNE 1911 AND THAT OF THE GOVERNOR GENERAL ON THE 7TH JULY 1911.]

An Act to amend and declare the Law for the Regulation of Hackney Carriages in the Town of Madras.

Whereas it is expedient to amend and declare the law relating to the regulation of hackney carriages; It is hereby enacted as follows:—

Preamble.

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Madras Hackney Carriage Act, 1911.

Title.

(2) It extends—

Local extent.

(*a*) to the town of Madras,

(*b*) to such other parts of the Presidency of Madras as the Local Government may by notification direct.

Provided that no such notification shall be issued unless notice of the proposed extension inviting objections thereto shall have been published not less than two months previously.

Commencement.

(3) It shall come into force—

(*a*) in the town of Madras at once, and

(*b*) in any area to which it may be extended by a notification under clause (*b*) of sub-section (2) on such date as may be specified in that behalf in the notification.

Provided that the Act shall not be extended to any town or place unless notice of the proposed extension inviting objections thereto shall have been published not less than two months previously.

Repeal.

2. The Madras Hackney Carriage Act, 1879, is hereby repealed.

Definitions.

3. In this Act, unless there be something repugnant in the subject or context—

"Commissioner."

(1) "Commissioner" means the Commissioner of Police appointed under the Madras City Police Act, 1888.

"Magistrate."

(2) "Magistrate" means any magistrate having local jurisdiction in any area to which this Act extends.

"Hackney carriage."

(3) "Hackney carriage" means any wheeled vehicle drawn or pushed by a man or horse, bullock or other animal and used for the conveyance of any person which stands or plies for hire by the hour or day or according to distance.

"Stage carriage."

(4) "Stage carriage" means any hackney carriage the passengers in which may pay or be charged at the rate of separate and distinct fares for their conveyance thereby.

"Driver"

(5) "Driving" includes dragging or pushing and "driver" includes any person who drives, drags or pushes any hackney carriage.

"Horse"

(6) "Horse" includes mule or pony.

"Year of registration."

(7) "Year of registration" means the year ending with the thirty-first day of March.

CHAPTER II

REGISTRATION AND NUMBERING OF HACKNEY CARRIAGES.

Annual registration compulsory.

4. Every hackney carriage shall be annually registered by the Commissioner.

Application for registry.

5. (1) Any person who is desirous of having any vehicle registered as a hackney carriage shall apply to the Commissioner, and shall submit such vehicle for such inspection as the Commissioner may direct.

(2) The person in whose name any carriage is registered shall be deemed to be the owner of such carriage for the purposes of this Act.

Right to registry.

6. Every applicant under section 5 shall be entitled to registration unless the Commissioner is of opinion that the vehicle is not fit for public use: Provided that no vehicle shall be registered in the name of a minor.

Grant of carriage license.

7. (1) The Commissioner shall at the time of registration deliver a license duly signed by him to the applicant.

Provided that no vehicle shall be registered in the name of a minor.

Currency of license.

(2) A license granted under this section shall be in force for the year of registration.

Form of license.

8. The following particulars shall be entered in the register and in the license to be given to the applicant:—

First.—The number in the register of the hackney carriage.

Second.—The name and residence of the owner and the place where the carriage is kept.

Third.—A description of the carriage.

Fourth.—The number of horses or other animals to be employed in drawing such carriage and, if the carriage is drawn or pushed by men, the number of men to be so employed.

Fifth.—The number of passengers such carriage is licensed to carry.

Sixth.—The date of the license.

Fee for license.

9. A fee shall be paid to the Commissioner for each license in accordance with the following scale:—

	Rs.	A.	P.
(*a*) For every four-wheeled carriage drawn by two or more horses licensed to carry more than six passengers	3	0	0
(*b*) For every other four-wheeled carriage drawn by two horses	2	0	0
(*c*) For every other four-wheeled carriage drawn by one horse or by bullocks ..	1	0	0
(*d*) For every two-wheeled carriage drawn by one horse	0	8	0
(*e*) For every two-wheeled carriage drawn by one or more bullocks.	0	4	0
(*f*) For every rickshaw, perambulator or other carriage drawn or pushed by a man	0	4	0

Suspension of license by Commissioner.

10. The Commissioner may suspend for such period as he thinks fit the license of any hackney carriage, whenever it appears to him that such carriage or any animal or harness used therewith is unfit for public use.

Transfer of registry.

11. On any transfer of a hackney carriage the transferee shall, if he desires to use it as such, within one week of the date of the transfer, apply to the Commissioner for transfer of the registry giving him the particulars specified in the first three clauses of section 8.

Notice of change of residence, etc., to be given by licensee.

12. (1) Whenever the owner of a hackney carriage changes his residence, or the place where such carriage is kept, he shall within one week from the date of such change forward his license and give to the Commissioner a notice in writing signed by him specifying the new residence or place.

Penalty.

(2) Every such owner who neglects to forward his license and give such notice shall be liable to a fine not exceeding twenty rupees.

13. The Commissioner, on receiving the application or notice specified in either of the two last preceding sections, shall make the necessary alteration in the register and the license and return the license ; and a fee of two annas shall be payable in respect thereof.

Transfers and change of residence to be registered.

14. Whoever keeps any hackney carriage, which has not been duly licensed under this Act, shall be liable to a fine not exceeding fifty rupees.

Penalty for keeping unlicensed hackney carriage.

15. (1) Upon the registration of any hackney carriage the Commissioner shall cause to be painted on some conspicuous part of the carriage or on a plate to be affixed on some conspicuous part of the carriage its number in the register and the number of passengers it is licensed to carry.

Numbering of hackney carrige.

(2) If the words or figures so painted become indistinct or are obliterated during the term of the license, the owner of the carriage shall be bound to produce it before the Commissioner and apply to have such words or figures renewed. If the plate so affixed shall have been lost or stolen, the owner of the carriage shall be bound to apply to the Commissioner to have a new plate affixed. The charge for such painting or new plate shall be four annas.

Renewal of inscription on plate.

16. (1) On the expiration or other determination of the period of registration, the owner of every hackney carriage shall cause the plate of such hackney carriage to be delivered to the Commissioner.

Return of plate on expiry of license.

(2) Any person who, after the expiration of the period aforesaid, wilfully omits for fourteen days to deliver the plate to the said officer, shall be liable to a fine not exceeding twenty rupees.

Penalty.

17. (1) Every person who shall, for the purpos of deception, use or have any plate resembling or intended to resemble any plate affixed under this Act, shall be punishable with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this

Penalty for using counterfeit plate.

section with fine which may extend to one hundred rupees or with imprisonment for a term which may extend to one month.

Seizure of counterfeit plate.

(2) Any police officer may seize and take away any plate used or had as aforesaid, wheresoever the same may be found, and dliver the same to the Commissioner.

Penalty for plying for hire without plate.

18. If any hackney carriage stands or plies for hire without a plate or legible inscription as prescribed by section 15, the owner thereof shall be liable to a fine not exceeding twenty rupees.

CHAPTER III.

DRIVER'S LICENSE AND BADGE.

Grant of driver's license.

19. (1) It shall be lawful for the Commissioner to grant a license to act as driver of any hackney carriage to any applicant whom he may consider fit.

Form of license.

(2) Every such license shall contain—

the number of the license,

the name, place of abode and age of the person to whom such license is granted,

the description of carriage and animals, if any, to be used therewith, and

the date on which the license was granted,

and shall bear the signature of the Commissioner.

Currency of license.

(3) Such license shall be in force for the year of registration and the fee payable therefor shall be one rupee unless the license relates solely to a carriage of the discription specified in clause (*f*) of section 9, in which case the fee shall be four annas.

Particulars of license to be registered.

20. The particulars of every license which shall be granted under the provisions of section 19 shall be entered in a register by the Commissioner, and every person applying shall be furnished with a certified copy of such particulars on payment of a fee of two annas.

21. If at any time fifteen days after the time when a license should have been obtained any person acts as the driver of a hackney carriage without having a license in force for the time being, or, having a license, fails to carry it with him when driving a hackney carriage or transfers or lends it or allows it to be used by any other person, he shall be liable to a penalty not exceeding twenty rupees

Penalty for driving without license or lending license.

22. The Commissioner may suspend for such period as he thinks fit the license of the driver of a hackney carriage whenever in his opinion such driver is unfit to be so employed.

Suspension of license by Commissioner.

23. The owner of a hackney carriage who knowingly suffers any person, not duly licensed under this Act, to act as driver of such carriage shall be liable to a penalty not exceeding fifty rupees.

Penalty for suffering unlicensed person to drive.

Provided that such owner and such unlicensed driver shall be subject to all the provisions of this Act for any act done or omitted to be done by such driver during such employment in like manner as if such driver had been duly licensed.

Proviso.

24. (1) The Commissioner shall, at the time of granting a license to any driver of a hackney carriage, furnish him with a metal badge punched or marked with the number of his license.

Supply of badge to driver.

(2) Every driver to whom such badge is delivered shall, at all times while acting as driver, or while attending before any magistrate, wear such badge exposed to view.

Driver to wear badge.

(3) In case any such driver omits to wear such badge exposed to view while acting as driver or attending before a magistrate, he shall be liable to a penalty not exceeding ten rupees.

Penalty.

(4) Whenever the number on any badge becomes indistinct or is obliterated during the term of the license, and also whenever any badge is lost or stolen, the person to whom the license relating to any such badge

Renewal of lost or damaged badge.

has been granted shall deliver such badge or notify its loss and shall produce such license to the Commissioner, and such person shall then be entitled to have a new license and badge delivered to him upon payment of half the fee mentioned in section 9. Such new license shall be in force for the year of registration.

Penalty.

(5) Every person licensed under the authority of this Act who uses or wears the badge granted to him after the writing thereon has become indistinct or obliterated shall be liable to a fine not exceeding ten rupees.

Return of expired license and badge.

25. (1) Upon the expiration or other determination of any license granted to a driver under this Act he shall deliver such license and his badge to the Commissioner.

Penalty.

(2) Every driver who neglects for three days to deliver such expired license and badge to the Commissioner, and also every person who uses, or wears or fraudulently detains any such expired license or badge, and every person to whom any expired license or badge has been delivered who lends, gives away, mortgages or sells such badge to any other person and every person who detains, wears or uses any license or badge of any other person shall be liable to a penalty not exceeding twenty rupees.

Penalty for using counterfeit badge.

26. Every person who for the purpose of deception uses or wears any badge resembling or intended to resemble any badge granted under the authority of this Act shall be punishable with fine which may extend to fifty rupees, and in the case of a subsequent conviction under this section with fine which may extend to one hundred rupees, or with imprisonment for a term which may extend to one month.

Seizure of expired or counterfeit badge.

27. Any police officer may seize and take away any expired or counterfeit badge or any badge in respect of which an offence under section 25 has been committed, wheresoever the same may be found, and deliver the same to the Commissioner.

Penalty for failing to produce license before magistrate.

28. Whenever any driver is summoned to appear before any magistrate to answer any charge preferred against him under this Act, he shall carry with him his license, and produce the same if required so to do; and any driver who on such requisition refuses to produce such license shall be liable to a fine not exceeding five rupees.

Convictions under Act to be endorsed on license.

29. On the conviction of any driver for any offence under this Act the magistrate shall cause to be endorsed on his license the nature of the offence, the date of the conviction and the amount of the penalty inflicted.

Cancellation or suspension of license on conviction.

30. (1) On the conviction of any driver for any offence under this Act the magistrate may direct the cancellation of the license of such driver or its suspension for such time as he thinks fit.

Return of license or badge on conviction.

(2) For such purpose he may require the driver or any person who may be in possession of the license or badge to deliver up the same.

Penalty.

(3) If such driver or other person refuses or neglects to deliver up the license or badge, he shall be liable to a penalty not exceeding ten rupees.

Magistrate to communicate and forward license and badge to Commissioner.

(4) The magistrate shall forward every license and every badge delivered up to him under sub-section (2) to the Commissioner together with a memorandum of his sentence in the case.

Action to be taken by Commissioner.

(5) The Commissioner shall enter the fact of such sentence in the register referred to in section 20, and shall either suspend or cancel such license according to the direction of the magistrate, and if it has been suspended, the Commissioner shall, on application, at the end of the period of suspension, redeliver such license or badge to the person to whom it was granted.

CHAPTER IV.

FARES, HIRING, AND PLYING FOR HIRE.

Maximum fares for use of hackney carriages.

31. (1) The owner or driver of every hackney carriage may demand and receive for the hire of such carriage such fares as may be fixed and published by the Commissioner with the sanction of the Local Government duly notified.

Contract for lower fare to be binding.

Provided that any agreement entered into to accept a fare lower than the fare so fixed shall be binding.

Back fares prohibited.

(2) No owner or driver shall demand or receive over and above the said fare any sum for back fare for the return of the carriage from the place at which it was discharged.

Contract for higher fare invalid.

32. No agreement made with the driver of any hackney carriage for the payment of more than the fare published in accordance with section 31 shall be binding on the person making the same, and any person, notwithstanding such agreement, may refuse on discharging such hackney carriage to pay any sum beyond such fare. If in pursuance of such agreement any person receives any sum exceeding the fare allowed he shall be liable to pay a fine not exceeding ten rupees and also to refund such excess, which shall be recoverable as if it were a fine.

Penalty.

Publication of authorized fares and distances.

33. (1) The Commissioner shall cause to be prepared a list in English and Tamil or other vernacular language of the fares published under S. 31 and shall annex to such list a table showing the distances between the principal places to and from which hackney carriages commonly ply. The distances so shown shall be presumed to be correct.

Copies of published scale to be available for sale.

(2) Copies of such list and table shall be issued to all applicants on payment of a fee of two annas for each copy.

Driver to keep copy of published scale and produce on demand.

(3) The driver of every hackney carriage standing or plying for hire shall have with him a copy of such list and table and shall on demand produce the same for the inspection of any police officer or for the information of any hirer of or passenger by, his carriage under penalty on conviction by a magistrate of a fine not exceeding ten rupees.

34. (1) The driver of every hackney carriage standing or plying for hire shall drive such carriage to any place named by the hirer which is not more than three miles from the place of hiring in the case of vehicles of the description specified in clause (*f*) of S. 9 and six miles in the case of any other vehicle.

Maximum distance to which driver is bound to drive.

(2) When any such carriage is hired by time, the driver thereof shall drive the same at a rate of speed not less than that prescribed by the Commissioner.

Maximum speed when hired by time.

(3) A driver failing, without reasonable excuse, to comply with the provisions of this section, shall be liable to a fine not exceeding ten rupees.

Penalty.

35. The driver of every hackney carriage shall carry in or upon such carriage without additional charge such quantity of luggage for every person hiring the same as may be prescribed by by-law under this Act.

Quantity of luggage to be carried.

36. Any owner or driver of any hackney carriage who demands more than the fare to which he is legally entitled or without reasonable excuse refuses to let such carriage for hire shall be liable to a fine not exceeding fifty rupees and to pay such further sum by way of compensation to the party complaining as to the magistrate may seem just; and such further sum shall, in default of immediate payment, be levied as if it were a fine.

Penalty for refusing to let hackney carriage for hire.

Penalties for various offences by driver.

37. Every driver of a hackney carriage, who

(*a*) is drunk during his employment,

(*b*) makes use of insulting or abusive language or gesture,

(*c*) stands elsewhere than at some stand or other place appointed for the purpose or loiters for the purpose of being hired in or upon any public street, road or place,

(*d*) wilfully obstructs, or hinders, the driver of any hackney carriage in taking up or setting down any person into, or from, such other carriage,

(e) wrongfully prevents or endeavours to prevent the driver of any other hackney carriage from being hired,

(f) refuses to admit and carry in such carriage the number of passengers the carriage is licensed to carry,

(g) carries more than such number of passengers,

(h) refuses to carry such quantity of luggage as is provided by the bye-laws under this Act,

(i) being hired, permits or suffers any person to be carried in or upon or about such hackney carriage during such hire, without the consent of the person hiring the same,

(j) drives in any hackney carriage any animal which is not so secured as to be under the control of the driver,

(k) being hired by time or distance, before he has been discharged by the hirer, wilfully deserts from the hiring,

(l) plies for hire with any carriage or animal which shall at the time be unfit for public use,

(m) without previously disinfecting it knowingly uses for hire any carriage used for the conveyance of a corpse or any person suffering from any contagious or infectious disease,

shall be liable to a fine not exceeding fifty rupees, or to imprisonment which may extend to one month, or to both.

Requisition to owner to produce absent driver.

38 (1) When a complaint is made before a magistrate against the driver of a hackney carriage under this Act, the magistrate may, if the driver fails to appear, summon the owner to appear and to produce the driver.

Penalty.

(2) If the owner after being duly summoned fails without reasonable excuse to appear or to produce the driver according to the summons, he shall be liable to a fine not exceeding fifty rupees.

Ex parte disposal of complaint.

(3) If the owner fails without reasonable excuse to appear or produce such driver on a second or subsequent summons requiring him to do so, the magistrate may dispose of the complaint in the absence of the owner and driver or either of them.

Procedure in case of disputes between hirer and driver.

39. (1) In case of any dispute between the hirer and the driver of any hackney carriage, either may require the other to proceed forthwith to the nearest magistrate's court; and the then sitting magistrate shall hear and determine the dispute in a summary way.

(2) If no magistrate be then sitting, either party may require the other to proceed to the nearest police officer who shall enter the complaint in his diary and require the parties to appear before the magistrate at his next sitting.

(3) On failure of either party to appear before the magistrate in pursuance of a requisition under sub-section (1) or sub-section (2) or to attend the court at any subsequent sitting to which the case may be adjourned the magistrate may decide the case *ex parte*, and his decision shall be binding on both parties.

Procedure in case of refusal to pay fare.

40. (1) If any person who has hired a hackney carriage refuses to pay to the owner or driver thereof the fare payable under this Act, the magistrate may order payment of such fare, and also of reasonable compensation for loss of time and in default of immediate payment such fare and compensation may be recovered as a fine.

Penalty.

(2) If any person who has used any such carriage attempts to evade payment of the legal fare, or any portion thereof, he shall be liable to a fine not exceeding fifty rupees in addition to any payment which may have been ordered under sub-section (1).

Penalty for defacing or destroying plate, badge or table of fares.

41. (1) Every person who wilfully tears, destroys, defaces, obliterates, or removes any plate, list of fares, table of distances or driver's badge kept under the provisions of this Act, shall be liable to a fine not exceeding twenty rupees.

(2) Any portion of the fine may be awarded to the person to whom such plate, list of fares, table of distances, or driver's badge belongs.

Penatly for wilful injury to hackney carriage.

42. Every person using a hackney carriage who wilfully injures the same shall be liable to a fine not exceeding Rs. 20, and shall also pay to the owner such compensation for the injury as the magistrate may direct; and such compensation shall be leviable as if it were a fine.

Hackney carriage may ply for hire as stage carriage.

43. (1) It shall be lawful for a registered hackney carriage to ply for hire as a stage carriage.

Fares for use of stage carriages.

(2) The owner or driver of a carriage so plying for hire or hired as a stage carriage shall not be subject to the provisions of section 31 but shall be entitled to receive such fares as shall be agreed upon between him and the several hirers respectively subject to any maximum which may be prescribed by the Commissioner.

Provisions of Act applicable to stage carriages.

(3) All the other provisions of this Act shall be applicable so far as may be to the case of a hackney carriage standing or plying as a stage carriage.

Hackney carriage stands.

44. (1) The Commissioner shall appoint a sufficient number of public stands for hackney carriages.

(2) Every public stand so appointed shall have a board placed in a conspicuous place on the same containing a notice in English and Tamil or other vernacular language stating that the stand is a public stand under this Act, and specifying the number of carriages that may stand upon it.

CHAPTER V.

LOST PROPERTY.

Deposit with police of property left in hackney carriages.

45. (1) The owner or driver of every hackney carriage wherein any property is left by any person shall, within eighteen hours, carry such property to the nearest police station and deposit it with the inspector or other officer on duty and shall be entitled to a receipt duly signed by the officer taking charge of the same.

Penalty.

(2) Any such owner or driver making default herein shall be liable to a fine not exceeding Rs. 20, or to imprisonment for a period which may extend to one month, or to both.

Police to register particulars of property deposited

46. (1) The said officer shall forthwith enter, in a book to be kept for that purpose,

(*a*) the description of the property;

(*b*) the name and address of the driver or other person who brings it;

(*c*) the name and address of the owner of the hackney carriage in which it was left, and the registered number of the carriage; and

(*d*) the day and hour when the property is brought;

and grant receipt.

and shall give to the person bringing the property a receipt for the same.

Return of property to owner.

(2) Such property shall be delivered to the person who satisfies the Commissioner that it belongs to him upon payment of all expenses incurred by the owner or driver, together with such reasonable sum as the Commissioner may award.

Sale of unclaimed property.

Provided that if the property is not claimed and the ownership established within six months from the date of deposit, the Commissioner may cause the property to be advertised and sold by public auction; and the proceeds, after deducting the expenses together with such reasonable sum as the Commissioner may award to the owner or driver, may be forfeited to the Government.

CHAPTER VI.

PROSECUTIONS.

Ex parte disposal of criminal charges.

47. If in any prosecution under this Act the person charged does not appear as directed by the summons, the magistrate may, upon proof of service and if no sufficient cause be shown for the non-appearance, proceed to dispose of the case in his absence.

Limitation restricting criminal proceedings.

48. (1) No person shall be liable to prosecution for any offence under this Act unless the complaint respecting such offence be made within one month next after the commission of such offence.

Continuing offences.

(2) For the purposes of this section every omission punishable under this Act shall be deemed to be a continuing offence so long as the omission continues.

Compensation for frivolous prosecution.

49. Where the magistrate is satisfied that a complainant had no reasonable ground for instituting a prosecution, he may direct the complainant to pay to the accused such compensation not exceeding fifty rupees as he thinks fit; and the sum so awarded shall be recoverable as if it were a fine.

CHAPTER VII.

BYE-LAWS AND DELEGATIONS.

50. The Commissioner may, subject to the approval of the Local Government and after previous publication, make bye-laws not inconsistent with the provisions of this Act with regard to—

Power to make bye-laws.

(*a*) the examination and qualifications of drivers and the conditions under which they may be employed;

(*b*) the description of horses, bullocks or other animals, harness and other things to be used with hackney carriages, the dimensions of such carriages, and the condition in which such carriages and the horses, bullocks or other animals, harness and other things used therewith shall be kept;

(*c*) the inspection of the premises on which any such carriages, horses, bullocks or other animals, harness and other things are kept;

(*d*) the protection of weak, lame and sickly horses, bullocks or other animals;

(*e*) the publication of a list of fares and table of distances and the regulation of the amount and weight of luggage to be carried with or without additional charge; and

(*f*) generally for carrying out the purposes of this Act.

Provided that such bye-laws shall not take effect until the expiration of one month from the date of their publication.

51. Whoever infringes any bye-law shall, on conviction before a magistrate, be liable to a fine not exceeding twenty rupees.

Penalty for breach of bye-laws.

52. Subject to the control of the Local Government the Commissioner may delegate to any Deputy or Assistant Commissioner all or any of his functions under this Act in respect of the whole or any part of the city of Madras.

Delegation of Commissioner's functions in Madras.

CHAPTER VIII.

EXTENSION OF THE ACT.

53. Upon the extension of this Act to any town or place under sub-section (3) of section 1 the Local Government shall appoint persons by name or by official designation to perform the functions of the Commissioner under this Act.

Discharge of Commissioner's functions in mufassal.

The Madras Law Journal Reports

SUPPLEMENT.

ARGUMENTS IN THE TIRUPATI TEMPLE SCHEME CASE.*

Before the Judicial Committee of the Privy Council.

Present:—Lord Macnaghten, Lord Atkinson, Sir Andrew Scoble and Sir Arthur Wilson.

Prayaga Doss Jee Varu, Mahant .. Appellant †

v.

Tirumala Anandam Pillai Purisa Sriranga Charlu Varu & another .. Respondents.

Sir Robert Finlay:—My Lords, I appear for the appellants with my friends Mr. De Gruyther and Mr. Le Fanu. Prayaga Doss Jee v. Sriranga Charlu.

Lord Macnaghten:—There is a case lodged by the respondents, but they do not appear.

Sir Robert Finlay:—Yes, unfortunately no one appears. I am sorry for it because it makes the task of the appellants rather more laborious, but I think the Court, by the help of the respondents' case and by referring to such parts of the evidence as seem to be material—I do not think they are very voluminous—will, of course, be able to deal with the point in dispute.

The case relates to orders made by the Court below as to the management of a group of Temples situated in the district of Northern Arcot. There is a range of hills there called the Tirumalai Hills and the adjacent town is called Tirupati. On the hills there is a group of Temples, some 12 in number, which are dedicated to the worship of Vishnu and Siva, and in the town of Tirupati there is a Mutt or Monastery of religious recluses, the head of which is called the Mahant. By an arrangement made in the year 1843, to which I shall have to call your Lordships' attention, it was ordered by the Governor, on the report of

* Judgment Reported in (1907) I.L.R. 30 M. 138. † 15th November, 1906.

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the Collector, that the Mahant, the head of the Mutt in the adjacent town of Tirupati, should be the trustee and manager of these temples. Unfortunately several of the Mahants have not been as faithful to their trust as they should have been and there has been some misappropriation of moneys brought to light in proceedings, to which I shall call your Lordships' attention presently, by several of the successors to that office and consequently to the guardianship of the temple. With regard to the present Mahant there is no allegation against him of any sort or kind. He is a comparatively young man and has held the office for some five years, I think, since the death of his predecessor, against whom these proceedings were first taken. The general nature of the Order made in the court below was this : there being allegations that the then defendant and some of his predecessors bad not sufficiently safeguarded the interests of the temple, the court of first instance ordered that a committee should be appointed to look after the matter.

Sir Arthur Wilson :—Conjointly with the Mahant ?

Sir Robert Finlay :—That the Mahant should act under their supervision. That was appealed against by both sides. Both were dissatisfied, and the High Court gave an Order which, from the point of view of the appellant, is open to even graver objection than was the order made by the court of first instance. The High Court set aside the order for a committee and appointed an additional trustee to act with the Mahant, this additional trustee being salaried with a salary of Rs. 500 a month, I think. Then they provided for the case of possible difference between the Mahant and the paid co-trustee by appointing the Pedda Jeyangar, that is the Chief Assistant in the temple, to act as umpire. We submit that that is a very undesirable arrangement. The Pedda Jeyangar and the Mahant have, for a long time, had a series of chronic differences which have resulted in a good deal of litigation. The Pedda Jeyangar is the subordinate of the Mahant, and I submit to Your Lordships that the arrangement is about as undesirable as could be devised for the superintendence of such an institution. I say at once, on behalf of the appellant, that he does not object in the slightest degree—on the contrary, he invites any order of the court securing the funds from all possibility of being tampered with. We say at once that we do

not object in the slightest, in fact we should like an arrangement by which it will be secured that all the offerings of the pilgrims who go to these temples shall be properly applied. These temples are sustained entirely, I believe, by voluntary contributions.

Lord Atkinson:—There is no invested property?

Sir Robert Finlay:—There is no invested property except some funds which have accumulated. We should have no objection whatever to an arrangement by which it should be secured that the offerings of the pilgrims should be made in chests which are under the control of the treasurer to be appointed; that the treasurer should have the key so that it should be secured that all offerings should go for the use of the temple. We should not object in the slightest degree to the most stringent audit and to the supervision of the investments, or to any step that could be taken with regard to the management and control of the property so as to make impossible such derelictions of duty in the future as have unfortunately taken place in the past, but we do most respectfully submit to the court that, having regard to the fact that the duties of the Mahant, as trustee of these temples, are to a very large extent religious and are concerned with the performance of the rites appropriate for the worship of these idols, it is not proper that a co-trustee should be appointed, and still less proper that, in the very probable event of differences between the paid trustee and the Mahant, there should be a reference to the subordinate of the Mahant as umpire.

Lord Macnaghten:—What do you ask us to do? This opening sounds rather like your asking for a scheme for the administration of these temple funds.

Sir Robert Finlay:—I think Your Lordships would probably consider it right that there should be some scheme.

Lord Macnaghten:—What I was asking you is what do you want us to do. I should have thought that it ought to go back to the High Court, because, of course, it would not be fair for us to make a scheme.

Sir Robert Finlay:—No, I agree. If we should satisfy Your Lordships that the present scheme is undesirable—

Lord Macnaghten:—You say that they are both undesirable and very inconvenient, but did you put your views before the

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High Court? Were your views, as expressed to us now, put before the High Court?

Sir Robert Finlay:—I cannot tell Your Lordship; I am not sure that they were. I think that the argument before the High Court went very largely on the powers of the court under Section 539, under which this Petition is lodged, but at the same time Your Lordships will find in the record certain proposals which were made by the present appellants for the purpose of securing adequate control, so that, while the construction of section 539 was argued at considerable length, the appellant also submitted to the court the general need of the scheme—and it is in writing here—to which he would have no objection.

Sir Arthur Wilson:—Does section 539 in terms authorise a scheme?

Sir Robert Finlay:—Yes, I will read it to Your Lordships at once. So that it really was before the High Court in both ways. The legal objection was argued and insisted upon and the nature of the control which the appellant would not object to was put into writing and submitted to the Court. Section 539 of the Civil Procedure Code is this: (Then Counsel read S. 539 C.P.C.)

Now I think it would be convenient that I should give Your Lordships the history of this temple as it appears on the documents in the first place, because the consideration of the circumstances is, of course, all important with reference to the question of what should be done. Regulation 7 of the Madras Regulations of 1817 put the Board of Revenue over all religious institutions which were to be managed by the Collector of the District under the Board of Revenue. It is a Regulation "for the due appropriation of the rents," &c., &c. (reading to the words) "in Hindu Temples" and so on. The recital is "And whereas considerable endowments have been granted in money" &c., &c. (reading to the words) "or the individuals through whom such endowments were made." Then it provides for the due repair and maintenance of the benefices. Then section 5 is as to the duty of the Board of Revenue to prevent any such endowments being converted to the private use of individuals or otherwise

misappropriated. Then the Board of Revenue are to appoint, under section 7, local agents and the Collector of the District is to be *ex-officio* one of those agents. I do not think I need read any more in that. Your Lordships will see very large powers are given to the Board of Revenue. That Regulation applied to these temples to which I have referred in the Arcot District. On the 12th June, 1841, a letter was written by the Directors of the East India Company, which directed the withdrawal of Government from the control of any religious institutions. Your Lordships will find that letter at page 340 of the Record. I need only read the second paragraph and the concluding paragraph of this letter. It begins by saying: "The Honourable the Court of Directors and the Government of India having ordered the immediate withdrawal from 'all interference with Native Temples and places of religious resort'" (Reading to the words line 28) "for the purpose of securing the public Revenue or in order that protection and justice may be afforded to the ryots." Then on page 341 there is the Order which is annexed at the end of the letter: "Ordered that transcript of the foregoing letter be forwarded by Circular to the several Collectors in the Provinces and to the Collector of Madras, with reference to the communication from this Department of date the 10th June. It will be the duty of the Collector to report in detail the arrangement he would propose for each institution in his District, explaining the present extent of interference and control, and showing how far that is withdrawn by the operation of the method of administration that is to supersede the present management. It will be proper, also, to suggest in what manner vacancies are to be supplied in the trustees, whether arising from death or resignation, so that the withdrawal of active interference by Government in the affairs of the Pagodas and Mosques shall be final and complete." Then on that, as desired, the North Arcot Collector made his report with regard to these temples.

Lord Macnaghten:—Is not this all ancient history? This came before the High Court. Is not everything necessary for the consideration by this Board set out in the judgment?

Sir Robert Finlay:—Not quite, I think. Your Lordships should have the report of the Collector which was made. If Your Lordships prefer it, I will read the judgment of the High Court first.

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Lord Macnaghten :—I think so.

Sir Robert Finlay :—Very well—particularly under the circumstances under which this case is argued.

Lord Macnaghten :—Is there any authority for this Board interfering with claims which have been settled by the High Court?

Sir Robert Finlay :—An appeal lies to Your Lordships and I apprehend there is no doubt Your Lordships have power to set the scheme aside and to remit the matter.

Lord Atkinson :—One of the principal grounds below was that there was no power to interfere at all.

Sir Robert Finlay :—That was one ground argued.

Lord Macnaghten :—You do not argue that now?

Sir Robert Finlay :—I say that there is no power to appoint a co-trustee as they have done. I submit that I do not think that I could argue that there was no power to settle a scheme, unless of course it were inconsistent with the fundamental constitution of the trust.

Lord Macnaghten :—Would not they have power to appoint a treasurer?

Sir Robert Finlay :—Yes; that, as I said, we should not object to. My submission to your Lordships is that the Court has gone upon very dangerous ground by the order they have made, and perhaps I may best bring it out by reading, as your Lordship suggests, the judgment. I can refer to the other documents afterwards. I think I must read both the judgments because, as I have already said to your Lordships, the two Courts have taken completely opposite views of what ought to be done, and I must read both, I think. The judgment of the first Court is at page 358. "Plaintiffs are two Mirasidars receiving income and emoluments attached to their offices," &c., &c. (reading to the words, page 359, line 1) "and personal properties of large value besides lands in the possession of persons performing duties in the said temples." There are no lands, as far as I understand, belonging to the temples. "Till the year 1843 these Devastanams were under the management of the Government. In pursuance of the change of policy that came into operation in that year, the Government placed the management

under the charge of Sheva Doss, the then head of the Hathiramji Mutt and appointed him Vicharanakarta by a Sanad, dated 10th July 1843 which vested the succession of the office of Vicharanakarta in the successor of Sheva Doss in the Headship of the Mutt." I think your Lordships' attention should be called, if I may pause here, to the terms of the Sanad which shows the nature of the duties. Of course, it was before the Court. The rest of the judgment will be hardly intelligible without referring to it. It is at page 239. This is the Sanad granted to the Mahant Sheva Doss, the first Mahant who was appointed to look after this institution. "In accordance with the Minutes of Consultation of His Excellency the Governor," &c., &c. (reading to the words, line 22) "you shall conduct them in proportion to the cash that may then exist." Then paragraph 4 is, not to make any collections by force from the pilgrims. Then paragraph 5 is: "The cash and other perquisites in the shape of provisions, &c., due to Archakas, Acharyapurushas, &c., and Jiyangars who are Vudigam (service) Mirasidars of the Devastanam, ought not to be withheld so long as they discharge their respective duties properly and with care." It is the chief Jiyangar who has been appointed by the High Court the umpire, he being one of the servants, Mirasidars, receiving a certain allowance. "Further, they shall be made to enjoy the lands and villages in the same way as they are now enjoyed by them. Should there be any negligence, &c., in the discharge of their duties, you shall deal with them in the same manner as Sircar had been dealing with them heretofore in that matter, and with propriety." Then paragraph 7 relates to certain books then sent, showing the services to be rendered by the attendants, the Mirasidars, at the temple. "Mamoolnamah shewing the honors which should be observed, and two books relating to" offerings. Paragraph 8 is: "During festivals, you shall conduct the festivals, &c., according to the customs of the Devastanams" &c., &c., (reading to the end of paragraph 9). Your Lordships see that put him in control of the religious functions of these temples and of the property. Now I resume reading the judgment of the first court at page 359. Sheva Doss was appointed Vicharanakarta "by a sanad, dated 10th July, 1843," &c., &c. (reading to the words, line 18). "Defendant

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was appointed Vicharanakarta and took possession of the office in March 1895." That is the original defendant Ramakishore, who has since died, and the second defendant is the Mahant. "It is stated that ever since he took charge, he was showing utter disregard for the customs and practices of the Devastanams" &c., &c. (reading to the words, page 360, line 20) "and that the suit is not maintainable as it raises questions which are contentious." Then certain issues are stated, and at page 361 the examination of the witnesses is referred to, and the argument. "The further argument was fixed for the 17th of September," &c., &c. (reading to the words, page 362, line 18). "With regard to Utsavams referred to in paragraphs 25 and 26, ten are said to have been stopped." Then the stoppage of one is admitted, the explanation is given and some details are entered into and the learned Judge says: "The takarar therefore was the consequence and not the cause of the stoppage of the Utsavam." Then he refers to the second Utsavam and in paragraph 9 he says: "Nos. 3, 6 and 7 are said to have been stopped by Defendant as they are not sanctioned by mamool" &c., &c. (reading to the words, page 363, line 16). "There is no evidence to the contrary." Then No. 9 was the case of a pilgrim paying for the whole of some service.

Lord Macnaghten :—Is this material?

Sir Robert Finlay :—I do not think I need read it all, my Lord. It relates a great deal to religious services, the way they were performed and the offerings taken. Then in paragraph 16 there is a paragraph relating to the Maramath accounts as they are called, that is the accounts for the repairs of the temple.

Lord Macnaghten :—I think you might go to paragraph 31.

Sir Robert Finlay :—Perhaps your Lordship will allow me to read in paragraph 16 at line 24: "It must therefore be admitted that some accounts have not been brought up to date, one account at least is not wholly correct and a few accounts have not been maintained at all. If, however, it is intended by these omissions and defects to show that defendant has been guilty of culpable neglect, I must say that the attempt has not been successful." That is the original defendant, not the present one. There is no charge of any kind against the present Mahant.

Then he gives reasons in the next sentence. Then I think, I might pass on, pointing out merely that the 18th paragraph relates to the dedication of offerings during Brahmotsavam. Paragraph 19 relates to the services and the festivals. Paragraph 20 gives the sums alleged to have been misappropriated by the successive Mahants. Then I pass on to paragraph 21: "Embezzlement, however, would not be a good ground for asking for a new scheme, provided it is practicable to recover the money embezzled," &c., &c. (reading to the words, line 18) "that there would otherwise be no possibility of recovering the sums thus embezzled by him." The judgment of the Court with regard to Dharma Doss is at page 185. Only one sentence is necessary to be read. The Court finds, on page 186, line 14: "Now, no doubt exists of this man's fraudulent conduct" &c., &c. (reading to the words line 24). "It certainly seems more to its advantage to retain the present manager than to appoint a new one." Then the judgment of the District Court goes on: "It has all along been the case for the defence that the Vicharanakartas have no personal assets, from which to satisfy such claims" &c., &c. (reading to the end of paragraph 21). Then I think I may pass over the findings on the 8th issue. Then on page 368: "9th Issue: That the management of the two institutions has been mixed up and that such mixing up has given rise to evils were expressly admitted by the learned counsel for the defence, who also conceded, when the case came up for final argument, that a scheme might be formulated so as to prevent the recurrence of such evils. I shall, however, dwell upon some of the instances pointed out for the plaintiffs of evils arising from the alleged mixing up of the management." Then there is a long detail given which I think, unless your Lordships desire it, I will pass over. Then paragraph 27: "10th issue: It is contended that in institutions where the trusteeship is hereditary, it is not competent to the court to interfere and settle a scheme" &c., &c. (reading to the words, page 371, line 4) "Whereas the Government by a special Legislation Act XX of 1863"—that Act applies to Bengal and Madras but not to Bombay; that is what the Court is referring to—"has expressly provided for the appointment of Committees" &c., &c. (Reading to the end of the paragraph).

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I think I should call Your Lordships' attention to the terms of that Act of 1863, because what follows is not intelligible without it. It is an Act relating to Native Religious Endowments applying to Bengal and Madras, Act No. XX of 1863. Now that Act, applying to these two Presidencies, divides religious institutions into two classes : one, the class where the appointment of the trustee or manager was subject to the control of the Governor or any Government Officer ; the other is the class to which this institution belongs, where the appointment of the trustee or manager is not in the Government ; because your Lordships will recollect that by the arrangement made in 1843, on the recommendation contained in the Collector's Report, the management of the institution is confided to the Mahant and his successor from time to time. Section 3 of this Act relates to the first class : " In the case of every temple or other religious establishment," &c., &c. (reading to the words) " are applicable." That is relating to Madras ; that is that Regulation 7 of 1817, which I called Your Lordships' attention to, " And the nomination of a Trustee, Manager or Superintendent thereof," &c., &c. (reading to the words) " makes special provision as hereinafter provided." Now that special provision is contained in Section 7 and some following sections and it consists in the appointment of Committees. Section 7 is : " In all cases described in section 3 of this Act the Local Government shall once for all appoint one or more Committee," &c., &c. (reading to the words) " under the Regulation hereby repealed." That would be in Madras, the 1817 Regulation. " Such Committee shall consist of three or more persons "; they are to be selected from persons professing the religion to which the temple is dedicated, and then some details are given with reference to the discharging of their duties. The second class of cases is that dealt with by Section 4, where the nomination of the superintendent was not vested in the Government, or not subject to the control of the Government, and then the provision is, that " the Local Government shall, as soon as possible after the passing of this Act, transfer to such Trustee," &c., &c., (reading to the words) " except such property as hereinafter provided " and all the powers of the Board of Revenue are to cease. Then Section 5 provides for the case of a vacancy in the office of Trustee

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where the property has been transferred under Section 4, and gives the power to appoint an *interim* manager till the vacancy is filled up.

Then, my Lords, the judgment goes on at page 371. "I do not see my way to accept this argument as sound" &c., &c. (reading to the words, line 37.) "It has enabled them to neglect the performance of their duties" and so on. Then on page 372: "In these circumstances, it is in my opinion necessary and advisable to frame a scheme for the better management of the Devastanam" &c., &c. (reading to the words, line 34.) "The prohibition in respect of the Bairagies is too sweeping and invidious". Then on page 373: "In the result I decree that a scheme for the management of the plaint," &c., &c. (reading to the words, line 15). "No servant of the Devastanam, and no person who is bound to perform any service in connection with the Devastanam shall be eligible to be appointed as a member of the Committee." If there were to be a Committee that, I submit, is a very sensible provision, and I say it with reference to what the High Court have done in appointing the Head Priest or Official in connection with the temple, and the subordinate of the Mahant, to be umpire. "No member of the committee shall accept any pecuniary engagement from the Devastanam." Every member shall hold office for five years, and so on. Then there is the provision for appointment in case of vacancy. Then on page 374: "10. The committee shall frame rules for the conduct of business and determine from time to time what business shall be done at meetings only, and what business may be done without a meeting. But no act or resolution of the committee shall be valid unless it is assented to by at least three members" and so on. Then, "11. The committee shall refer to the Vicharanakarta all such resolutions on which action has to be taken by the Vicharanakarta for such action to be taken; and the Vicharanakarta shall give effect to all such resolutions; and if he fails to give effect to the same within a reasonable time, any member of the committee may apply to the District Court of North Arcot for an order to compel the Vicharanakarta to give effect to the same." Then, "12. Every member of the committee shall have power to visit and inspect the shrines and charities appertaining to the Devastanam and report the result."

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Then, "No change in the ceremonial or in the paditharams, festivals, utsavams of the Devastanams and generally no innovation shall be made or introduced except in accordance with a resolution of the committee." Then, "18. All investments of trust funds shall be made only in accordance with the resolutions of the committee and no landed property of the temple including lands held on mortgage or any other right shall be given on lease for more than five years" and so on. Then there are detailed provisions as to the sum to be kept in hand by the Vicharanakarta, and provisions in paragraph 21 for detailed accounts, to be prepared by the Vicharanakarta of receipts and disbursements during the year and for audit. Then on page 376 there is a provision for disbursing the funds of the Devastanam by the Vicharanakarta according to the budget to be approved by the committee. Then paragraph 25 is: "All maramat works, including construction and repair of every kind provided for in the budget shall be carried out with reference to properly prepared estimates," and so on.

Now, My Lords, that is the scheme. With regard to that, the criticism is this, and it was made by the High Court, that a committee of this kind was not a very suitable body; they could not rely upon the members attending and for that reason they set aside the proposal to have a committee, and reverted to and adopted the scheme, the nature of which I indicated to Your Lordships. But I submit there is this further criticism, and it is decidedly to be made with reference to the appointment of the committee. If the control given to them was merely over the property, the offerings, the accounts, the disbursements, and so on, there would be nothing to be said except as to whether the machinery adopted was the best, but their powers go further than that. They are given, under this scheme, power to interfere with the purely religious part of the duties of the Mahant. Your Lordships will see that the Committee, in paragraph 11, are to refer to the Vicharanakarta all resolutions and he is bound to carry them out. Then, under paragraph 12, every member of the Committee, has power to visit and inspect the shrines. Then, paragraph 13: "No change in the ceremonial or in the paditharams" &c., &c. (reading the paragraph).

Now, My Lords, the case came up because both parties appealed. Neither side were satisfied, and both parties appealed to the High Court. Then the case was argued before the High Court, and the High Court suggested that the plaint should be amended by adding a prayer for the application of any surplus funds *cypres*, and that amendment was made before the judgment of the High Court was given. Your Lordships will find it at page 467. I think that the suggestion for this amendment proceeded from the Court itself. "The Plaintiffs above named, beg to state as follows" &c., &c. (reading to the words) "and to place the administration of the Devastanams on a satisfactory footing." That amendment having been made, the High Court gives judgment, which Your Lordships will find on page 477, and they set aside the Committee for the reasons which are given, but they appointed a paid trustee, and made the Pedda Jiyangar the umpire in case of dispute. They further provided for the application of any surplus funds *cypres* in a method which recalls the schemes which are in force in England with regard to various branches of education. I suppose it is a case of putting very new wine into very old bottles, which is hardly sustainable, and there is this further observation with regard to investing any further funds: As I told your Lordships, these temples are dependent on voluntary offerings. There is no certainty that the offerings will be kept up in succeeding years. The buildings of the temples, I am informed—I think my friend Mr. DeGruyther knows them—are very beautiful, and they want, or may want from time to time very considerable repairs, and it is highly undesirable that the surplus funds should be applied *cypres* for the purpose of founding a college with scholarships for encouraging the study of the Shastras.

Now the judgment begins on page 477. They state that it is a very ancient temple "and is in receipt of an annual income of between two and three lacs of Rupees. Prior to the establishment of the British Government, the management of the institution was directly under the ruler of the country for the time being. After the advent of the British, the management passed into the hands of the East India Company." Then reference is made to 1817 and the Board of Revenue, and what was done in 1843, to which I have

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called your Lordships' attention. Then the terms of the Sannad were referred to. Then at line 11: "Sheva Doss having died in 1864, Darma Doss succeeded him" &c., &c. (reading to the words, line 22) "but the history of what took place subsequent to Sheva Doss' death is, to put it shortly, a record of waste and embezzlement." My Lords, I think I ought, with reference to the appointment of the Mahant to this office, just to refer, very shortly, to a passage or two in the report of the Collector on which that Sannad was based, because he there brings into great prominence the fact that Pedda Jiyangar was an aspirant to that office and gives reasons why the Pedda Jiyangar should not be in such a position of authority. The Collector's report is at page 131. I will not read the whole of it, but I think that your Lordships will find that it does throw light on the questions dealt with in this judgment. It is a report made in answer to that letter which I read. He refers to various petitions as to the management, and then at line 11 on page 132 he says: "No. 1998 of 1842 is from the Head Jiyangar" &c., &c. (reading to the words, line 22) "he now sets forth the want of qualifications in the Mahant." Then he urges certain objections that he made to the Mahant, which are set out, and the Collector expresses his opinion that those objections are not valid. Then at page 133, line 22: "The Board observe that 'it too may perhaps' deserve consideration whether so large and 'important' a charge could be safely committed to one individual, however respectable" &c., &c. (reading to the end of the paragraph). Then he says that the argument is in favour of a sole manager. Then I will go on with the judgment of the High Court, line 23, page 478: "Persons interested in the institution were not slow to bring the misconduct of the managers to the notice of the authorities. A suit was brought against Darma Doss, the second manager, charging him with misconduct and malversation. The charges were established and the District Court gave a decree against him. On appeal the decree was confirmed." Then I do not know that I need read the details of that. Your Lordships have it in the Court below and I referred to it. Then on page 479: "The present Suits Nos. 31 of 1898 and 10 of 1899 were brought against the last holder of the office" &c., &c. (reading to the words, page 480, line 18) "even

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though such appointment involved a departure from the arrangement contemplated in the constitution of the trust." I have got here the 17th Equity which is referred to there.

Lord Macnaghten :—There is no doubt about it, is there?

Sir Robert Finlay:—No. I do not think there is : "The case in *In the matter of the Charity called Storey's Alms-houses, in the Town of Cambridge*"[1] &c., &c. (reading to the words, page 481, line 41) "Either of the Trustees should be liable to summary removal by the District Court on good cause shown subject to appeal to the High Court." My Lords, that is a part of the scheme to which I take the strongest exception. I shall call Your Lordships' attention presently to the terms of the Act of 1863 which prescribed the formalities which had to be pursued before applying for the removal of a Trustee. This makes him subject to summary removal. "In addition to the matter of the appointment of such new Trustee" &c.,&c. (reading to the words, page 482, line 8) "Proceeding on the *cypres* principle the following are the objects on which both sides are agreed that the surplus funds may be appropriately spent." Now with regard to that I do submit to Your Lordships, that the proper provision would be to say that any sums that were not required in any particular year should be invested, because the result of setting up a scheme of this kind on which any surplus is to be spent, would be that the Temples would be left without proper provision for most expensive repairs which may become necessary at an early date. Let every precaution be taken—the most stringent precautions—to secure that the Mahant cannot misapply the accumulations, but I most respectfully protest against the idea that it is proper that any surplus should be spent. Now the objects on which it is to be spent are detailed in the following passage.

Lord Macnaghten :—Apparently that was done on the agreement of both parties. Did the Advocate-General take any part in settling the scheme ?

Sir Robert Finlay :—No, my Lord.

Lord Macnaghten :—Is that so usually, or not ?

Sir Robert Finlay :—I am told he does not.

(1). (1839) 9 L. J. Eq. 93.

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Lord Macnaghten :—Of course in this country the Attorney-General has control of it.

Sir Robert Finlay :—Nobody can take proceedings except in the presence of the Attorney-General.

Lord Macnaghten :—When you settle a scheme, is it subject to the approval of the Advocate-General ?

Sir Arthur Wilson:—No proceedings could be taken without the leave of the Advocate General.

Sir Robert Finlay :—No. I am told not. The sanction of the Advocate-General is necessary for the proceedings.

Sir Andrew Scoble :—And that was given, I suppose.

Sir Robert Finlay :—That was given for the proceedings. These proceedings are under Section 539, and by the terms of that section, I think his sanction was required. That was given, but that was all. It does strike one that the concurrence of such a functionary as that in the establishment of the scheme is just as desirable as it is desirable in this country that the public should be represented by the Attorney General. This really resolves itself into a suit between the Pedda Jiyangar and the Mahant.

Lord Macnaghten :—That is to say, his servant.

Sir Robert Finlay :—Well, the Pedda Jiyangar has achieved a complete victory. His heel is on the neck of his old adversary, but, after all, the chief thing in these matters is the public interest, and in England that is recognised by the fact that it is only the Attorney-General who can take proceedings with regard to the application of funds of Charities.

Lord Macnaghten :—I was thinking of what order we could usefully make, if we could make any. It does not seem that we can make any.

Sir Robert Finlay :—I shall have a submission to make to Your Lordships as to the outline of a scheme. I do not ask Your Lordships to settle it in detail, and I think it would be most valuable if Your Lordships should send this back, if the concurrence of the Advocate-General could be required.

Lord Macnaghten :—In point of fact the Order would be something like this, that the High Court should reconsider the scheme with the assistance of the Advocate-General.

Sir Robert Finlay :—Yes.

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Lord Macnaghten:—I do not know that we can do more than that.

Sir Robert Finlay:—If the case was sent back, I do not know whether it would be sent back to the Court of first instance.

Sir Andrew Scoble :—Not necessarily.

Lord Macnaghten:—If we could send it back to the High Court, then the assistance of the Advocate-General could be secured. If we did that, I think it would probably be desirable that we should not express any opinion of our own on any view that the High Court has taken. It might have an unfortunate result. What do you say to that? Perhaps you will consider it.

Sir Robert Finlay :—It would be, in some ways, of great value for Your Lordships to give an indication as to the general principle to be observed, and I shall have a submission to make to Your Lordships with regard to that. As to the working out of the details, I quite see that it is not desirable that Your Lordships should express an opinion. The general principle that I suggest is simply this: That any scheme should provide, in the most stringent manner, for securing that all offerings shall go into the treasury; that they are under the control of a responsible treasurer, who shall be independent of the Mahant; that the accounts shall be properly audited; that any surplus in any year shall be invested in such a way that the Mahant will not be able if so disposed, to misapply it, but that it shall be available for the purposes of the temple in future years.

Lord Atkinson :—You will have to make a provision as to who is to determine what expenditure is necessary for the purposes of the temple.

Sir Robert Finlay :—Yes, I think that is so. It would probably be met, would it not, if the concurrence of the person appointed treasurer were required, with the concurrence of the Mahant as to any particular expenditure.

Sir Arthur Wilson:—But if you have two whose consent is required then there must be an umpire to decide between them.

Sir Robert Finlay :—It may be that, as regards expenditure, it might be left to the treasurer. Perhaps Your Lordships will allow me to consider that.

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Lord Macnaghten:—I think the accounts ought not simply to be audited, but a report ought to be made annually, say, to the Advocate-General or some officer.

Sir Robert Finlay :—I quite agree, My Lord. I am told it is to the District Judge in the usual way, and if some steps were taken to give publicity to the audit, that would be satisfactory.

Sir Arthur Wilson :—It ought to be some local person. The Advocate-General is too distant. This is a long way off.

Sir Robert Finlay:—It is Northern Arcot. I forget how many hundreds of miles it is from Madras. I think it is not very far from the sea.

Lord Macnaghten :—Apparently the income is very large and the surplus is very large.

Sir Robert Finlay :—Well it fluctuates a good deal. I am told it is purely a question of the offerings.

Lord Macnaghten :—I dare say the probability is that the offerings will not fall off.

Sir Robert Finlay : —Yes, my Lord.

Lord Atkinson:— It has stood a good deal in the way of peculation.

Lord Macnaghten:—The offerings will be enough, no doubt.

Sir Robert Finlay:—I have to read the nature of the *Cy—pres* scheme, and perhaps Your Lordships will allow me to do that after the adjournment. I submit that the *Cy—pres* scheme should not stand.

(*Adjourned for a short time*).

Sir Robert Finlay :—I was about to read to Your Lordships the particulars as to the *Cy—pres* scheme which the Court directed, on page 482. " Proceeding on the *Cy—pres* principle the following are the objects on which both sides are agreed that the surplus funds may be appropriately spent." That does not mean that they agreed that there should be a *Cy—pres* scheme, but it was said that if there was a *Cy—pres* scheme, those were not bad objects. Now here they are : " The establishment of a College in Lower Tirupati for the promotion among Hindus of a knowledge of the Hindu Religion and Shastras," &c., &c. (reading to

the words, page 482, line 32) "until the money is required for the objects referred to above or for other purposes connected with the institution." My Lords, I respectfully submit that there should not be such an authorisation to deal with the jewels belonging to the Temple. "It should be further provided that all other funds not required for immediate expenditure should be invested" &c., &c. (reading to the words, page 483, line 8) "A brief report by the trustees of their administration for the past year should be published early in the next year." That is all expressed at the top of page 483, only I submit it should be done by a treasurer and not a person specially authorised to interfere with the more sacred duties of the Mahant. "The scheme should prohibit any transaction of a pecuniary or mercantile character between the Mutt on the one hand and the Temple on the other," &c., &c. (reading to the words, line 20) "or by persons interested for any modification of the scheme that may be found necessary."

Now, My Lords, a case has been filed on behalf of the respondents and, ordinarily speaking, as they are not here, I should offer to read it, but I think Your Lordships will find, if you glance at it, that it contains nothing whatever except the proceedings. It sets out in the earlier paragraphs the proceedings to which I have referred, and which are copiously referred to in the judgment, and cites passages from the judgment. There is no argument of any sort, as far as I have observed, in the case. At paragraph 22 it says: "The respondents submit that the said judgment and decree of the High Court, against which the present appeal has been filed, should be upheld for the following among other reasons."

Lord Atkinson :—They say it is right?

Sir Robert Finlay :—Yes. Therefore I submit to your Lordships that what was suggested before the adjournment would be probably the best way of securing a proper ending to this litigation—if the High Court were directed, in communication with the Advocate-General to settle a scheme for the appointment of a treasurer.

Sir Andrew Scoble :—What authority is there for saying that the Advocate-General in the Towns of the Presidency, can interfere in charity cases arising in the Mofussil.

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Sir Robert Finlay:—Your Lordship sees that his sanction was necessary for the institution of these proceedings. As he has sanctioned the proceedings, could it be considered *ultra vires* of the Advocate-General to give assistance to the Court in settling a scheme?

Sir Andrew Scoble:—If he had sanctioned the proceedings on the condition that he should be made a party to the suit, that would, no doubt, give him a right to interfere.

Sir Robert Finlay:—Yes, but inasmuch as he might have been—

Lord Macnaghten:—He might have moved in the matter.

Sir Robert Finlay:—He might have moved. I was going to say that. Does not that show that it is competent for the Advocate-General to take part in a matter of this kind? Therefore, if your Lordships should see fit to take that course, it would be competent for him to intervene. Your Lordship sees, as his powers are not confined to the Presidency Towns, because he might act in the Mofussil as well, only, there is a concurrent power in the Mofussil to the Collector with the sanction of the Local Government.

Then what I would respectfully suggest is this, that if Your Lordships should think fit to take that course, and say that the duties of the treasurer are to be confined to looking after the funds, the heads that I suggest are that he should have power to secure that all offerings really go into the treasury. That might be provided for, of course, by having boxes into which they are to be put—boxes which are under the control of the treasurer and of which the treasurer alone has the key—or any machinery of that kind. Of course Your Lordships would not go into details of that kind. Then, secondly, for securing that all investments should be made by him or with his concurrence; thirdly, *for giving him a voice as to what expenditure should be incurred and as to the contracts* * fourthly, for securing the most stringent audit, and, fifthly, a publication of the accounts—that they should be gazetted and made known in the District, so that all parties interested might have an opportunity of bringing matters to the notice of the authorities. What I do submit

* [The italics are ours.—ED.]

to Your Lordships should be entirely negatived is the introduction of the Pedda Jiyangar, a party to the litigation, as umpire or in any position of authority in the matter, and, secondly, that the power for summary removal of the trustee is entirely contrary to the whole scope of the Legislation of 1843.

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Lord Macnaghten:—Is not that all superseded by the Civil Code?

Sir Robert Finlay:—I submit to Your Lordship that in providing for the establishment of a scheme under Section 539, it was not contemplated that when special provision had been made by the Legislation of 1863 as to the procedure necessary for the removal of a trustee, all these precautions should be swept away and that the trustee might be summarily removed, even if there was power to do it, which, I submit, there is not.

Sir Arthur Wilson:—Was not it intended to supersede the local Act by the provisions of the General Act in Section 539?

Sir Robert Finlay:—It was intended undoubtedly to add that general enactment, but I submit, even if there were powers, which I question, to do it, it would not be a proper exercise of the power to make a person in the position of this Mahant, trustee removeable summarily, having regard to the precautions which the Legislature, by an Act which still exists, hedged round interference with his removal. Then I submit that the objections to a Committee stated by the High Court are decisive and that a treasurer, one person, should be appointed. Then I submit to Your Lordships that Section 539 does not authorise the introduction of the doctrine of *Cy—pres*, and, if it did, that the circumstances here are not such as to call for any application of that doctrine. The temple might be impoverished and deprived of the funds which, in future, it wanted, if the funds are to be devoted to scholarships for the study of the Shastras and the establishment of hostels for the accommodation of the students. Then in the last case I submit that the direction giving authority to sell the temple jewels is highly objectionable. There ought not to be power to sell them, and my submission to the court is that the treasurer ought not to be in any way nominated or suggested by the Mahant; that the direct power of appointing the treasurer should be given to the District Judge, and that he should be the person to appoint the treasurer. Those are the

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suggestions that I make to your Lordships. Of course they are only in the broadest outlines, and your Lordships will not consider it desirable, I apprehend, to go into details.

Lord Macnaghten:—I do not think it would be desirable to go into details. We are very glad, Sir Robert, to have your assistance because you know so much about these questions in your late capacity. Would it be asking too much if we asked you to prepare some heads for the assistance of their Lordships ?

Sir Robert Finlay :—Certainly, with the assistance of my learned friends, I should be most glad to do so.

Lord Macnaghten:—I think it will be a great assistance to the Court.

Sir Robert Finlay :—Your Lordships do not want details, but the heads.

Lord Macnaghten :—No, not details.

Sir Robert Finlay :—Putting into shape the suggestions I have made orally now ?

Lord Macnaghten :—Yes, I think that would be the best way of dealing with the case, and then we will consider those. It will not be necessary to put the case down again for argument.

Sir Robert Finlay :—No, My Lord.

Lord Macnaghten :—You will hand those suggestions in ?

Sir Robert Finlay:—And then Your Lordships will say what is to be done.

Lord Macnaghten :—Yes.

Sir Robert Finlay :—We will have it prepared as speedily as possible, while the matter is fresh in our minds, and hand it in to the Registrar.

Rules framed by the District Court of North Arcot under Paragraph 2 of the Scheme settled by the Privy Council,* as amended by the High Court of Judicature at Madras.

1. Receipt and custody of offerings, &c.,

The Treasurer appointed by the District Court shall hold his office for 5 years and shall be eligible for re-appointment.

2. He shall have an Assistant, a Shroff, two clerks and as many guards or peons as may be found necessary.

3. The whole of the Treasurer's establishment including the Assistant, shall be appointed and dismissed by the Treasurer. A list of the establishment and also such changes as may be made from time to time, will be communicated by the Treasurer to the Vicharanakartha.

4. The pay of the Establishment shall be provided for in the budget and shall be made payable to the Treasurer each month with his own pay. The establishment including the Assistant Treasurer shall be subject to the authority of the Treasurer alone.

5. The Treasury will be in Tirupati. The Assistant Treasurer shall, as a rule, stay on Tirumalai, but may be relieved, when absolutely necessary, by the Treasurer himself or by one of his clerks.

6. When the Treasurer is unable from illness or other cause to attend to his duties, it shall be competent for him to delegate his duties on his own responsibility to his assistant or to any one else when the period of his absence does not exceed two weeks, and he shall immediately report such delegation to the District Court. If the period of absence exceeds two weeks, the District Court itself will appoint the *locum tenens*.

7. The Assistant Treasurer shall be present when the Koppara is opened and its contents are examined.

8. The box containing the Mullalus as well as the box within the Bangaruvakili hereinafter called Kanuga box, shall be supplied with double locks, each lock having duplicate keys. The keys of one of the locks shall be with the Parpathyadar and the Trustee respectively and the keys of the second lock will be with the Assistant Treasurer and the Treasurer. Mullalus,

* See I. L. R. 30 M. 142.

Mullalu box and the Kanuga box shall be sealed also with the seal of the Assistant Treasurer.

9. The Hundi shall be emptied twice a day as at present. The contents of the Hundi emptied during the day shall be immediately assorted in the presence of the Assistant Treasurer and the agents or servants of the Vicharanakartha and of the Jeeyangar. The contents of the Hundi emptied in the night shall be tied in the Mullalus bearing the seal of the Assistant Treasurer and the other usual seals, and shall be secured in a bag sealed as above. This bag shall be kept in the Mullalu box which shall be deposited in the Kanuga Box. The contents of the bag shall be assorted along with the next day's parakamani in the presence of the persons named above.

The Hundi shall be sealed also with the seal of the Assistant Treasurer.

10. The Mullalus containing the ordinary daily offerings shall be directly taken from Tirumalai, to Tirupati Treasury and they shall not be taken to the Mutt but they shall, if there be no time to take them down to Tirupati, be secured in the Kanuga box. Save as provided in rule 9, no person attached to the Mutt, whether paid or unpaid, shall interfere with the parakamani nor shall any such person be allowed to interfere with the collection of the money for Sevas.

11. The dubbies now placed at the Kulasekarapadi and the dubbies now carried with the deity during procession at Tirumalai and at Tirupati shall be made with small openings on the lid to admit of coins being put in; and they shall be locked and sealed with the usual seals and with the seal of the Assistant Treasurer at Tirumalai and with the seal of the Treasurer at Tirupati.

12. The dubbi on the hills shall be opened and examined in the same way as Koppara is examined on the hills. The dubbi at Tirupati shall be opened and examined in the manner prescribed for parakamani in Tirupati.

13. During Brahmotsavam there shall be no parakamani. The offerings etc., shall be collected in bags and sealed and placed in Kanuga box mentioned in rule No. 8. These bags shall be taken directly from Tirumalai to Tirupati Treasury, and shall there be secured until the parakamani next hereinafter mentioned.

14. The Mullaloos containing the ordinary daily offerings shall be directly taken from Tirumalai to Tirupati Treasury. The daily parakamani at Tirupati shall be conducted in the Devasthanam office in the presence of the Treasurer and the Vicharanakartha and the Vicharanakartha shall, once for all, fix the time for parakamani in communication with the Treasurer.

Note:—Rules 13 and 14 are not intended to affect the rights or duties of any person to be present at the time.

15. The remittance list shall be signed also by the Assistant Treasurer. The Vicharanakartha will further cause the Parpathyadar to select from among the respectable pilgrims one or two umpires to be present at the parakamani and sign the remittance list, if any of the pilgrims are willing to do so.

Note:—This appears to have been the practice during the Circar Management.

16. In case of all Arjithams including Harathi moneys, Kanikas, Amanivagapadies, Muthra, Mantapam &c., offerings and all incomes, the receipts shall be prepared in triplicates signed by the Vicharanakartha or his officials, of which one shall be given to the pilgrim, the second shall be retained in the office and the third shall be sent to the Treasurer through the Vicharanakartha.

17. Whenever Articles, Jewels and other things belonging to the Devasthanam are sent from Tirupati to Tirumalai, they shall be sent from the Devasthanam's Treasury or stores, Tirupati, directly to the Devasthanam, Tirumalai, without their being taken to the Mutt at Tirumalai. And similarly, whenever Articles, Jewels and other things are sent from Tirumalai to Tirupati, they shall be sent directly to the Devasthanam Treasury or stores at Tirupati.

18. Notice shall be put up by the Vicharanakartha in Tamil, Telugu, Malayalam, Canarese, Guzerati, Hindi, Mahratti and English in conspicuous places in the temple at Tirumalai and in the approaches thereto and in the temple of Govindarajaswami and Ramaswami and in the temple of Padmavati Ammavaru at Tiruchanur that the offerings to the deities in the respective temples are to be made in the places described within

the temples themselves and no where else. The Vicharanakartha shall put up boards in the various temples in the above languages showing the rates chargeable for the various Sevas, Arjithams &c.

19. The usual articles required for the use of the Devasthanam including rice, perfumes, fuel and other things shall be purchased under the contract system and contracts for all purchases shall be made by the Vicharanakartha by publicly inviting tenders for the same or by putting up to auction publicly the right to supply the same.

20. No livestock, stores or provisions or article belonging to the Devasthanam, except articles required for the Devasthanam office shall be deposited or kept in the Mutt or any premises belonging to the Mutt, and no livestock, stores, provisions or articles belonging to the Mutt shall be kept or deposited in any place belonging to the Devasthanam.

21. There shall be no transaction of a pecuniary or mercantile nature between the Devasthanam on the one hand and the Mutt or a Bairagi of the Mutt or any officer or servant thereof on the other. No person who is employed with or without pay in the Mutt shall be employed as an officer or servant of Devasthanam, and any person employed in Devasthanam shall, if he accepts any employment or office in the Mutt, be deemed to have vacated his office in the Devasthanam. No Bairagi of the Mutt shall be employed in the stores or in the Treasury Department of the Devasthanam either at Tirupati or at Tirumalai.

22. The Vicharanakartha shall not invest surplus funds in purchasing immoveable properties or taking mortgages of immoveable properties without the sanction of the District Court. No moveable property of the Devasthanam shall be pledged except with the sanction of the District Court.

23 The Vicharanakartha shall invest all surplus funds in Government paper with the sanction of the District Court and may with like sanction sell them.

24. The Vicharanakartha shall have a permanent Advance of Rs. 3,000—for petty and urgent payments and recoup it at the end of each month or oftener, if necessary, by preparing proper vouchers and sending them to the Treasurer. In respect of all other ordinary expenditure the Vicharanakartha shall

enface all bills with payment orders and deliver them in closed covers bearing his seal, to the parties concerned, or send such covers with the parties concerned through a member of his Establishment for presentation at the Treasury. The Treasurer shall make payments on the bills so received and return the vouchers at the close of each day with a list of payments made on that day. No payment shall be made by the Treasurer except on bills duly passed by Vicharanakartha. The receipts of all paid up bills returned by the Treasurer with the list aforesaid shall be acknowledged by the Vicharanakartha in a book to be forwarded by the Treasurer along with them.

25. The remittances from Tiruttani Taluk and other lands shall be remitted by the Thasildar or other officer concerned direct to the Treasurer, a copy of the remittances being sent also to the Vicharanakartha. The Treasurer shall acknowledge the receipt of the money and return the remittance list through the Vicharanakartha to the Thasildar.

Accounts and Audit.

26. The present system of accounts, as prescribed in the Manual, shall be continued with such modification as may be suggested by the Auditor at the first Audit.

27. The District Judge may call upon the Vicharanakartha to furnish an explanation in writing in regard to any item of the Budget and such explanation shall be filed with budget.

28. The abstract of the accounts prepared and certified by the Auditor shall be filed by the Vicharanakartha in the District Court of North Arcot and shall also be published by him in English, Tamil and Telugu languages in the North Arcot District Gazette and in one leading Hindu Newspaper printed and published in the City of Madras.

29. The Devasthanam Treasury shall be examined and an account shall be prepared of moneys, coins, gold and silver articles &c , in the Treasury by the Vicharanakartha and the Treasurer once in six months.

30. The Vicharanakartha shall have power at all times to inspect and examine the Treasury at Tirupati and the Mulla box and Kanuga box at Tirumalai. The result of the inspection shall be entered in a book and a copy of the same may, if

necessary, be submitted to the District Court The time of such inspection should be fixed in communication with the Treasurer and Assistant Treasurer.

31. A complete inventory (Jadthi) shall be made once a year of all articles and personal properties belonging to the Devasthanam by the Vicharanakartha in the presence of those who are usually present on such occasions.

32. All jewels and precious stones whose values are not fixed and noted shall be appraised by expert shroffs. A register in duplicate shall be prepared showing the name, the weight and value of all jewels including the precious stones in the custody of Archakas and Vicharanakartha. A copy of this register shall be deposited with the Treasurer.

33. Jewels which are kept at Tirumalai other than jewels in the custody of Archakas, and precious stones which are kept at Tirumalai, shall be secured as at present with the modification that the Treasurer's seal also shall be placed on the boxes.

Jewels which are kept at Tirupati, other than jewels in the custody of Archakas, and precious stones which are kept at Tirupati shall be kept in the Treasury, in the sole custody of the Treasurer. All uncurrent, coins, gold, silver, copper, etc., received with remittance list shall be sold by public auction once in two months at the Treasury office. The sale shall be conducted by Vicharanakartha in the presence of the Treasurer.

Maramath.

34 All Maramath works including construction and repair of every kind, making or repairing any Jewel or Vahanam provided for in the Budget shall be carried out with reference to properly prepared estimates.

35. Estimates of works of more than Rs. 100 in value shall be prepared or checked by an officer not below a supervisor in rank and no work shall be commenced until the estimate for the same is sanctioned by the Vicharanakartha.

36. All works above Rs. 500 in value should be checked and completion certificate countersigned by a similar officer.

37. Only persons qualified by tests and training should be appointed as far as possible for the posts of Overseers and Supervisors.

38. The Devasthanam office at Tirupati shall be removed from inside to outside of the Mutt, within 18 months from this date. The Treasury and stores will be removed to a new building to be constructed. Pending the construction of the new building the Treasury and the Stores shall be located in the Nammalwar Gudi precincts. After the office is removed outside the Mutt, the Treasury and the office may be conveniently located in one building.

39. A Visitors' Book shall be kept at the principal shrines wherein it shall be competent to the pilgrims and others interested in the temples as worshippers or otherwise to note any remarks relating to the receipts and disposal of offerings to the temples under the management thereof.

40. The appointment of the Treasurer and the rules shall come into force on 1st November 1907, but the first Budget to be filed by the Vicharanakartha in this Court shall be for the period extending from 1st November 1907 to 30th June 1908; and the same shall be filed in the Court one week before the date fixed for the rules to come into force. Subsequent Budgets shall be prepared for fasli years and shall be filed on or before the 31st March of the previous fasli.

The pay of the Treasurer shall be Rs. 250 *per mensem*, and he shall furnish security of Rs. 10,000 in cash or Government securities. The pay of the Assistant Treasurer shall be not less than Rs. 50 and shall not exceed Rs. 75 and he shall furnish similar security of Rs. 1,000.

The pay of	the Head Clerk	not to exceed	Rs. 35.
,,	2nd Clerk	,,	Rs. 20.
,,	Shroff	,,	Rs. 15.
,,	Head Guard	,,	Rs. 10.
,,	Guards each	,,	Rs. 7.

The number of the guards shall be fixed by the Treasurer.

41. The term "Mutt" in the above rules means Hathiramjee Mutt, and "Devasthanams" means Tirupati, Tirumalai and other Devasthanams.

(True Copy)

(Sd.) MANAVEDAN RAJA,
District Judge.

(Sd.) C. MAHOMED HUSSAIN,
Superintendent.

ANANDA PRESS, MADRAS.